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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-
liability company,

Plaintiff,

v.

ENTERPRISE FUNDING, LLC, a Wisconsin
limited liability company; and JEFFREY
MAKINEN, an individual,

Defendants.

Case No.: 2:10-cv-0706

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Enterprise Funding, LLC (“Enterprise”) and Jeffrey Makinen (“Mr. Makinen”; collectively with Enterprise known herein as the “Defendants”), on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. §501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Enterprise is, and has been at all times relevant to this lawsuit, a limited-liability company with its principal place of business in Wisconsin.

5. Enterprise is, and has been at all times relevant to this lawsuit, the owner of the Internet domain found at <statfox.com> (the “Domain”).

6. Mr. Makinen is, and has been at all times relevant to this lawsuit, in administrative control of the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”).

7. Mr. Makinen is “[i]nvolved in all aspects of the business operation including technology, sales, budgeting, and customer support” of the Website, as evidenced by a printout of Mr. Makinen’s LinkedIn webpage, attached hereto as Exhibit 1.

JURISDICTION

8. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1338(a).

9. The Defendants purposefully direct activities at Nevada residents, which activities have resulted in the copyright infringement alleged herein.

10. Righthaven is the copyright owner of the literary work entitled “Super Bowl bettors put faith, cash in Colts’ corner” (the “Work”), attached hereto as Exhibit 2.

11. Enterprise copied, on an unauthorized basis, the Work from a source emanating from Nevada.

12. On or about February 1, 2010, Enterprise displayed and continues to display an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 3, on the Website.

1 13. Enterprise's display of the Infringement was and is purposefully directed at
2 Nevada residents.

3 14. Mr. Makinen copied, on an unauthorized basis, the Work from a source
4 emanating from Nevada.

5 15. On or about February 1, 2010, Mr. Makinen displayed and continues to display
6 the Infringement on the Website.

7 16. Mr. Makinen's display of the Infringement was and is purposefully directed at
8 Nevada residents.

9 17. Enterprise copied, on an unauthorized basis, the literary work entitled "Underdog
10 bettors profit as Manning takes fall," attached hereto as Exhibit 4 (the "Underdog Bettors
11 Article"), from a source emanating from Nevada.

12 18. On or about February 8, 2010, Enterprise displayed and continues to display the
13 Underdog Bettors Article on the Website.

14 19. Enterprise's display of the Underdog Bettors Article was and is purposefully
15 directed at Nevada residents.

16 20. Mr. Makinen copied, on an unauthorized basis, the Underdog Bettors Article from
17 a source emanating from Nevada.

18 21. On or about February 8, 2010, Mr. Makinen displayed and continues to display
19 the Underdog Bettors Article on the Website.

20 22. Mr. Makinen's display of the Underdog Bettors Article was and is purposefully
21 directed at Nevada residents.

22 23. The Defendants purposefully direct and effectuate the unauthorized reproduction
23 of Righthaven-owned copyrighted works on the Website.

24 24. The Defendants' unauthorized reproduction of Righthaven-owned copyrighted
25 works found on the Website is purposefully targeted to Nevada residents.

26 25. The Defendants' contacts with Nevada are systematic and continuous because the
27 Defendants published and publish, on the Website, content emanating from Nevada, originally
28 published in Nevada daily newspapers.

1 36. Mr. Makinen is identified, via the content on the Website, as the President of
2 StatFox.

3 37. Mr. Makinen is the self-proclaimed “President and Founder” of the Website.

4 38. Mr. Makinen declares, via Mr. Makinen’s LinkedIn webpage, that Mr. Makinen is
5 “involved in all aspects of the business operation including technology, sales, budgeting, and
6 customer support” for the Website.

7 39. Neither statfox.com nor StatFox is a known, formally organized business entity.

8 40. Attempts to find evidence of formal organization status in the respective Secretary
9 of State offices of Nevada, Delaware, Texas, and Wisconsin demonstrate that, at least with
10 respect to these states, statfox.com and StatFox are not formally organized business entities.

11 41. At all times relevant to this lawsuit, Mr. Makinen has controlled and controls the
12 trade name StatFox.

13 42. At all times relevant to this lawsuit, Mr. Makinen has maintained and maintains
14 the administrative duties to add to, delete from, and arrange the content on the Website.

15 43. No later than February 1, 2010, the Defendants reproduced an unauthorized copy
16 of the Work on the Website.

17 44. The Infringement includes the erroneous declaration that the Work was authored
18 by “Staff Writer - StatFox.”

19 45. The Defendants did not seek permission, in any manner, to reproduce, display, or
20 otherwise exploit the Work.

21 46. The Defendants were not granted permission, in any manner, to reproduce,
22 display, or otherwise exploit the Work.

23
24 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

25 47. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
26 46 above.

27 48. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
28 U.S.C. §106(1).

1 49. Righthaven holds the exclusive right to prepare derivative works based upon the
2 Work, pursuant to 17 U.S.C. §106(2).

3 50. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
4 17 U.S.C. §106(3).

5 51. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
6 U.S.C. §106(5).

7 52. The Defendants, via the Website, reproduced the Work in derogation of
8 Righthaven's exclusive rights under 17 U.S.C. §106(1).

9 53. The Defendants, via the Website, created an unauthorized derivative of the Work
10 in derogation of Righthaven's exclusive rights under 17 U.S.C. §106(2).

11 54. The Defendants, via the Website, distributed and continue to distribute an
12 unauthorized reproduction of the Work in derogation of Righthaven's exclusive rights under 17
13 U.S.C. §106(3).

14 55. The Defendants publicly displayed and continue to display an unauthorized
15 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
16 17 U.S.C. §106(5).

17 56. Enterprise has willfully engaged in the copyright infringement of the Work.

18 57. Mr. Makinen has willfully engaged in the copyright infringement of the Work.

19 58. The Defendants' acts as alleged herein, and the ongoing direct results of those
20 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
21 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

22 59. Unless the Defendants are preliminarily and permanently enjoined from further
23 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
24 entitled to preliminary and permanent injunctive relief against further infringement by the
25 Defendants of the Work, pursuant to 17 U.S.C. §502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;
2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:
 - a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;
 - b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and
 - c. All financial evidence and documentation relating to the Defendants' use of the Work;
3. Direct Network Solutions and any successor domain name registrar for the Domain to lock the Domain and transfer control of the Domain to Righthaven;
4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. §504(c);
5. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and
6. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Fed.R.Civ.P. 38.

Dated this fourteenth day of May, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons
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